

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6524

BILL NUMBER: SB 152

NOTE PREPARED: Dec 18, 2009

BILL AMENDED:

SUBJECT: Sharing Sexually Explicit Material.

FIRST AUTHOR: Sen. Bray

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: *School Corporation:* The bill authorizes a school corporation to provide education concerning the potential risks and consequences of creating and sharing sexually suggestive or explicit materials through cell phones, over a computer, or through other digital media.

Defense: The bill also provides that, for a defendant charged with an offense involving the dissemination or display to minors of material that is harmful to minors or obscene, it is a defense that the defendant was less than four years older than the minor who received or accessed the matter and that the minor expressly or implicitly acquiesced in the defendant's conduct.

Effective Date: July 1, 2010.

Explanation of State Expenditures: *Defense:* Any effects of the bill on admissions to state correctional facilities are expected to be minimal since between 2005 and 2008, no offenders have been admitted to a state correctional facility for this offense. By providing an additional defense to dissemination or display to minors of material that is harmful to minors or obscene, the bill could reduce the number of people convicted of this Class D felony.

Background: A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$20,194 in FY 2009. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$4,818 annually, or \$13.20 daily, per prisoner. The

estimated average cost of housing a juvenile in a state juvenile facility was \$75,050 in FY 2009. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

Explanation of State Revenues: *Defense:* If fines for this offense are not imposed and collected, revenue to both the Common School Fund and the state General Fund would decrease. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund.

If a guilty verdict is not entered and the case was filed in a circuit, superior, or county court, criminal costs fee would not be collected and deposited in the state General Fund and other fees such as the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), judicial insurance adjustment fee (\$1), and the DNA sample processing fee (\$1) would not be collected and deposited into the state General Fund.

Explanation of Local Expenditures: *Defense:* Defendants would still be detained in county jails prior to their court hearings, local expenditures for jail operations may increase. The average cost per day is approximately \$44.

Explanation of Local Revenues: *Defense:* If a guilty verdict is not entered, local governments would not receive revenue from the following sources: The county general fund would receive 27% of the \$120 criminal costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of the criminal costs fee. In addition, several additional fees may be collected at the discretion of the judge and depending upon the particular type of criminal case.

State Agencies Affected: DOC.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Indiana Sheriffs' Association; DOC.

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